

1 Will Lemkul, NV Bar No. 6715
2 Christopher Turtzo, NV Bar. No. 10253
3 MORRIS, SULLIVAN & LEMKUL, LLP
4 3960 Howard Hughes Parkway, Suite 420
5 Las Vegas, NV 89169
6 Phone (702) 405-8100
7 Fax (702) 405-8101
8 lemkul@morrissullivanlaw.com
9 turtzo@morrissullivanlaw.com

10 Attorneys for Defendant, Skechers USA, Inc.

11
12 **UNITED STATES DISTRICT COURT**
13
14 **DISTRICT OF NEVADA**

15 ALICIA HOUSE, as Legal Guardian to
16 LILLIE JIMENEZ-HOUSE, a minor,

17 Plaintiffs,

18 v.

19 SKECHERS USA, INC., a foreign
20 corporation; DOE Employees 1-10; DOE
21 Individuals 11-20; and ROE Corporations 21-
22 30, inclusive,

23 Defendants.

24 **Case No.**

25 **(Removed from Clark County District
26 Court Case No: A-21-830984-C)**

27 **SKECHERS USA, INC.'S NOTICE OF
28 REMOVAL TO THE UNITED STATES
DISTRICT COURT OF NEVADA – LAS
VEGAS UNDER 28 USC § 1441
(DIVERSITY JURISDICTION)**

29
30 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
31 OF NEVADA – LAS VEGAS:

32
33 Defendant SKECHERS USA, INC. ("Skechers") hereby removes this case to the United
34 States District Court for the District of Nevada under 28 U.S.C. § 1441, based upon diversity
35 jurisdiction as defined by 28 U.S.C. § 1332, as follows:

36 1. On March 12, 2021, Plaintiff ALICIA HOUSE, as Legal Guardian to LILLIE
37 JIMENEZ-HOUSE, a minor ("Plaintiff"), filed a lawsuit in the District Court of Clark County,
38 Nevada, titled *Alicia House, et al. v. Skechers USA, Inc., et al.*, Case No. A-21-830984-C, alleging
39 three causes of action for Negligence, Negligent Hiring/Training/Supervision/Retention, and
40 Respondeat Superior, stemming from a slip and fall at a Skecher's Factory Outlet, located at 1925
41 West Craig Road, No. 102, North Las Vegas, NV 89032 ("Subject Property").

2. Skechers was served with a copy of Plaintiff's Summons and Complaint on March 15, 2021. Attached as **Exhibit A** is a true and correct copy of the Summons and Complaint, along with the Affidavit for Service, served upon Skechers on March 15, 2021.

4 3. On March 15, 2021, Skechers received a copy of the Complaint. As such, this
5 Notice of removal is, accordingly, timely filed. No further proceedings have been had in the state
6 court action.

7 4. This Court has original jurisdiction over this civil lawsuit under 28 U.S.C. § 1332
8 of the United States Code, and it is one which may be removed to this Court by Skechers under 28
9 U.S.C. §1441(b) because it involves citizens of different states, and the amount in controversy
10 exceeds \$75,000.00, exclusive of interest and costs.

11 5. Further, the District Court of Clark County, Nevada is located in the United States
12 District Court for the District of Nevada. Therefore, venue is proper under 28 U.S.C. § 84 because
13 this is the "district and division within which such action is pending[.]" *See* 28 U.S.C. § 1446(a).

14 6. No previous application has been made for the relief requested herein.

15 7. Under 28 U.S.C. § 1446(d), a copy of this Notice of removal is being served upon
16 counsel for Plaintiff, and a copy is being filed with the clerk of the District Court of Clark County,
17 Nevada.

This Court Has Original Jurisdiction Under 28 U.S.C. §§ 1332 and 1441

(Diversity of Citizenship)

20 8. **There is a complete diversity of citizenship.** The basic requirement in diversity
21 cases is that all plaintiffs must be of different citizenship than all defendants. Any instance of
22 common citizenship prevents federal diversity jurisdiction. For removal purposes, diversity must
23 exist both at the time the action was commenced in state court and at the time of removal. Strotek
24 Corporation v. Air Transport Association of America, 300 F.3d 1129, 1131 (9th Cir. 2002). A
25 case is removable on diversity grounds if diversity of citizenship can be ascertained from the face
26 of plaintiff's Complaint or this fact is disclosed in pleadings, motions or papers "from which it
27 may first be ascertained that the case is one which is or has become removable[.]" 28 U.S.C. §
28 1446(b)(3).

1 9. Skechers is informed and believes, and on that basis alleges that, at the time this
 2 action was commenced and at the time of removal, Plaintiff was, and is, a citizen of the State of
 3 Nevada.

4 10. At the time this action was commenced and at the time of removal, Skechers was,
 5 and is, incorporated in Delaware, with its principal place of business in the State of California.

6 11. Thus, complete diversity exists as of the time the action was commenced in state
 7 court and at the time of removal, and there are no other named defendants that can defeat
 8 diversity. "Doe" defendants may be ignored for removal purposes. *See Salveson v. Western State*
 9 *Bank Card Assn.*, 731 F.2d 1423 (9th Cir. 1984).

10 12. **The amount in controversy requirement is satisfied.** The amount in controversy
 11 exceeds \$75,000.00, exclusive of interest and costs. Plaintiff has demanded more than \$75,000 to
 12 resolve her claims.

13 13. Generally, a federal district court will first "consider whether it is 'facially
 14 apparent' from the complaint that the jurisdictional amount is in controversy." *Abrego v. Dow*
 15 *Chem. Co.*, 443 F.3d 676, 690 (9th Cir. 2006).) (internal citation omitted). But, a defendant may
 16 remove a suit to federal court notwithstanding the failure of the plaintiffs to plead the required
 17 amount. *Id.* Absent the facial showing from the complaint, the court may consider facts averred
 18 in the removal petition. *Id.* If the defendant's allegation(s) regarding the amount in controversy is
 19 challenged, then "both sides submit proof and the court decides, by a preponderance of the
 20 evidence, whether the amount in controversy requirement has been satisfied." *Ibarra v. Manheim*
 21 *Invs., Inc.*, 775 F.3d 1193, 1195 (9th Cir. 2015) (*quoting Dart Cherokee Basin Operating Co., LLC*
 22 *v. Owens*, 135 S. Ct. 547, 554 (2014).) At that time, "it may be appropriate to allow discovery
 23 relevant to [the] jurisdictional amount prior to remanding." *Abrego*, 443 F.3d at 691.

24 14. Plaintiff's Complaint prays for general damages for past and future harms and
 25 losses in an amount in *excess* of \$15,000.00. *See* Compl., p. 8, ¶1. Although Plaintiff has not
 26 plead the required amount of \$75,000.00 in the Complaint, Plaintiff has demanded more than
 27 \$75,000 to resolve her claims.

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1 15. Skechers disputes that it is liable for any damages whatsoever to Plaintiff.
2 Nevertheless, Skechers can demonstrate that the amount in controversy exceeds \$75,000.00 under
3 the “preponderance of the evidence” standard. Guglielmino v. McKee Foods Corp., 506 F.3d 696,
4 699 (9th Cir. 2007). The standard requires only that the removing party present evidence that “it
5 is more likely than not” that the amount in controversy is satisfied. Id.

6 16. Based on the foregoing, this Court has original jurisdiction because there is a
7 complete diversity of citizenship among the parties and the amount in controversy exceeds
8 \$75,000.00, exclusive of interest and costs.

This Court Has Supplemental Jurisdiction

10 17. "[I]n any civil action of which the district courts have original jurisdiction, the
11 district courts shall have supplemental jurisdiction over all other claims that are so related to
12 claims in the action within such original jurisdiction that they form part of the same case or
13 controversy under Article III of the United States Constitution." 28 U.S.C. §1337(a). The
14 Supreme Court has noted that the supplemental jurisdiction statute "applies with equal force to
15 cases removed to federal court as to cases initially filed there; a removed case is necessarily one
16 'of which the district courts . . . have original jurisdiction'...." City of Chicago v. International
17 College of Surgeons, 522 U.S. 156, 165 (1997). Although one of several claims does not "arise
18 under" federal law, removal is still appropriate if that claim is transactionally related (i.e.
19 "supplemental") to at least one substantial federal claim. Zuniga v. Blue Cross & Blue Shield of
20 Michigan, 52 F.3d 1395, 1399 (6th Cir. 1995). A single case exists in the constitutional sense
21 wherever the state and federal claims arise from a "common nucleus of operative facts" such that a
22 plaintiff "would ordinarily be expected to try them all in a single judicial proceeding." United
23 Mine Workers v. Gibbs (1966) 383 U.S. 715, 725.

24 18. Here, all of Plaintiff's causes of action arise out of the same nucleus of operative
25 facts, i.e. the slip and fall at Skecher's Factory Outlet. This Court, therefore, has supplemental
26 jurisdiction under 28 U.S.C. § 1337 of any other claims Plaintiff may raise in this action. *See*
27 Priebe v. Autobarn, Ltd., 240 F.3d 584 (7th Cir. 2001) (where federal jurisdiction existed under
28 Magnuson-Moss, district court properly exercised supplemental jurisdiction over plaintiffs'

1 remaining causes of action including a state fraudulent business practices claim and a common law
2 fraud claim).

3 19. Based upon the foregoing, all requirements for diversity jurisdiction and removal
4 jurisdiction have been met. Defendant Skechers, accordingly, requests that this action now
5 pending against it in the District Court of Clark County, Nevada be removed to this Court, and that
6 this Court assume complete jurisdiction in this matter.

7 20. This removal notice is timely filed as it is filed less than 30 days after Skechers was
8 served with the complaint. Therefore, removal of this case is timely.

9 21. Defendant will promptly notify plaintiff and the District Court of Clark County,
10 Nevada of this removal as required by 28 U.S.C. § 1446(d).

13 | Dated this 2nd day of April, 2021.

MORRIS, SULLIVAN & LEMKUL, LLP

By: /s/ Christopher Turtzo
Will Lemkul, NV Bar No. 6715
Christopher Turtzo, NV Bar. No. 10253
3960 Howard Hughes Parkway, Suite 420
Las Vegas, NV 89169
Phone (702) 405-8100
Fax (702) 405-8101
Attorneys for Defendant, Skechers USA, Inc.